IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 1865/2007
(Natharam V/s State of Rajasthan & Anr.)

Date of Order : 27/11/2007

PRESENT
HON'BLE MR. JUSTICE H.R.PANWAR

Mr. M.S.Purohit for the petitioner.
Mr. Ashok Upadhyay, public prosecutor for the State.
Mr. D.D.Chitlangi for the respondent No.2.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner seeks quashing of FIR No. 100/2007, Police Station-Panchu, district Bikaner for the offences under Sections 467, 468, 471 and 474 IPC.

I have heard learned counsel for the petitioner and public prosecutor for the State as also the counsel appearing for the respondent No.2 without notice.

It is contended by learned counsel for the petitioner that the petitioner is a Sarpanch and therefore, the proceeding is barred in view of Section 197 Cr.P.C. as no sanction from the Government to prosecute the petitioner has been obtained. It is further contended that issuance of patta is after following the procedure prescribed under the law and therefore, there is no illegality.

On careful perusal of the FIR, in my view, the FIR discloses the cognizable offences. So far as protection of Section 197 Cr.P.C. is concerned, it provides that when any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Govt. In the instant case, the stage of taking cognizance has not arrived at and it is only that FIR has been registered and investigation has ensued. In my view, for investigation, the provision of Section 197 Cr.P.C. does not come in the way and therefore, the petition has no merit and it is dismissed.

However, it is open for the petitioner to file the documents with regard to issuance of the patta by following the due process of law to the concerned investigating officer and if such documents are filed, the investigating officer while investigating in the said FIR, investigate the matter also in the light of the documents furnished by the petitioner.

(H.R.PANWAR),J.

rp

S.B.CR. MISC. STAY PETITION NO. 1537/07
IN
S.B.CR. MISC. PETITION NO. 1865/2007
(Natha Ram Vs. State of Rajasthan and Anr.)

Date of Order : 27/11/2007

PRESENT
HON'BLE MR. JUSTICE H.R.PANWAR

Mr. M.S.Purohit for the petitioner.
Mr. Ashok Upadhyay, public prosecutor for the State.
Mr. D.D.Chitlangi for the respondent No.2.

Since the criminal misc. petition itself has been dismissed, the stay petition also stands dismissed.

(H.R.PANWAR), J.

rp.